



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MAR 9 1988

MEMORANDUM

SUBJECT: RCRA Permit Requirements for State Superfund Actions

FROM: Jeffery D. Denit, Acting Director
Office of Solid Waste *[Signature]*

TO: Jeff Zelikson, Director
Toxics and Waste Management Division

This is in response to your February 16, 1988, memorandum in which you raised questions about the scope of the Office of Solid Waste and Emergency Response Policy Directive #9522.00-2. This Directive clarified the conditions under which authorized States could waive the Resource Conservation and Recovery Act (RCRA) permits for State remedial actions.

As you noted, the Directive solely addresses permit waivers in authorized States. An unauthorized State does not have the authority to waive Federal RCRA permitting requirements. However, as the Office of Solid Waste (OSW) staff have indicated to you, the Environmental Protection Agency (EPA) could waive RCRA permitting requirements for a State cleanup if it did so under Section 7003 authority. This waiver authority is not limited to sites contained on the State Superfund list. It could also be used for sites subject to State enforcement actions if an EPA Section 7003 order is issued upon making a finding of imminent and substantial endangerment.

If you or your staff have further questions on this issue, please call Matt Hale, Permits Branch Chief, OSW, (FTS) 382-4740.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

215 Fremont Street

San Francisco, Ca. 94105

16 FEB 1992

Subject: RCRA Permit Requirements for State
Superfund Actions

From: Jeff Zelikson, Director *Jeff Zelikson*
Toxics and Waste Management Division

To: J. Winston Porter, Assistant Administrator
Office of Solid Waste and Emergency Response

In a recent OSWER Policy Directive (#9522.00-2), you clarified the conditions by which RCRA permits are not required for cleanup actions taken by RCRA-authorized states under state Superfund or other authorities. This was helpful, and I believe it encourages states to move ahead on cleanups under their own Superfund authorities without waiting for a RCRA permit to be issued.

Since the Policy Directive spoke only to RCRA-authorized states, it raises the follow-on question as to whether EPA may waive RCRA permits for cleanup actions at state Superfund sites in states that do not have RCRA authorization. A telephone response by OSW to this question is affirmative, because of the federal permit waiver authority in § 7003 of RCRA. Accordingly, we have begun waiving RCRA permits at state Superfund sites in our unauthorized states.

I would appreciate clarification as to how broadly this permit waiver authority could apply in unauthorized states. For example, cleanup actions at sites that are under enforcement order (but not on the State Superfund list) may be accelerated if a RCRA permit did not have to be issued. We have not yet waived permits at such sites, pending this clarification.

If your staff would like to discuss this further, they may call Jim Breitlow, Permits Chief, at (FTS) 454-8391.